ENTERCOM®

CARRIE A. WARD
ASSOCIATE COUNSEL

September 28, 2010

VIA ELECTRONIC FILING
Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Notice of Ex Parte Communication
MB Docket No. 09-182

Dear Ms. Dortch:

On September 27, 2010, John C. Donlevie, Executive Vice President and General Counsel of Entercom Communications Corp., along with Elliot Evers, Managing Director of Media Venture Partners, LLC, and David Benjamin, President and CEO of Triad Broadcasting Company, LLC, met with Eloise Gore, Acting Media Legal Advisor to Commissioner Mignon Clyburn, and Dave Grimaldi, Chief of Staff and Media Legal Advisor to Commissioner Clyburn, concerning the above-referenced proceeding.

During the meeting, Messrs. Donlevie, Evers and Benjamin provided copies of their respective company's comments filed in the proceeding (copies of which are attached hereto) and reiterated their company's positions contained therein regarding: (i) the elimination the "subcap" requirement that restricts a company's ownership of only a certain number of stations in the same service in each local radio market; and (ii) and the removal of the restriction on the transfer of a cluster of grandfathered stations.

In accordance with 47 C.F.R. §1.1206, one electronic copy of this letter is being filed in the above-referenced docket. Please direct any inquiries concerning this matter to the undersigned.

Respectfully submitted,

Carrie A. Ward

Carrie Ward
Associate Counsel
Entercom Communications Corp.

Enclosures

cc: Eloise Gore, Acting Media Legal Advisor to Commissioner Clyburn
Dave Grimaldi, Chief of Staff and Media Legal Advisor to Commissioner Clyburn

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Before the

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

In the Matter of	)	
	)	
2010 Quadrennial Regulatory Review	)	MB Docket No. 09-182
of the Commission's Broadcast Ownership	)	
Rules and Other Rules Adopted Pursuant to	)	
Section 202 of the Communications Act of	)	
1996	)	

REPLY COMMENTS OF ENTERCOM COMMUNICATIONS CORP.

Entercom Communications Corp. ("Entercom"), the ultimate parent company of various subsidiaries that collectively are licensed to operate 111 broadcast radio stations (32 AM and 79 FM) throughout the United States, hereby submits reply comments in the instant proceeding urging the Commission: (1) to eliminate the "subcap" requirement that restricts a company's ownership of only a certain number of stations in the same service (AM or FM) in each local radio market; and (2) to permit the transfer of "grandfathered" clusters of radio stations without any limitations.

As other commenters to this proceeding have advocated[1], the subcap requirement is not supported by today's broadcasting environment and can be an impediment to better utilization of the AM band. One of the reasons for the adoption of the subcap was to protect AM radio. Whether or not this had any basis in the past, with the advances in technology over the past years that have improved the ability of AM radio to compete in the marketplace, there is even less

[1] *See* comments of The National Association of Broadcasters, MB Docket No. 09-182, at 90 (July 12, 2010); and Comments of Clear Channel Communications, Inc., MB Docket No. 09-182, at 37-45 (July 12, 2010) ("Clear Channel").

validity to this position. These technological advancements include, among other things online streaming, the implementation of HD technology, and the ability for an AM station to use an FM translator to augment the broadcast of its signal. AM radio does not need the protection originally intended by the subcap restriction. The fact that many of the top stations in large and small markets[2] are AM stations, undercuts any argument that AM will flounder if the subcap was removed.

In addition to the arguments raised by other commentators, the subcap limitation can interfere with delivering full market service with a diversity of programming. For example, an Entercom subsidiary in the Wilkes-Barre Scranton market operates a news/talk network that includes 3 non-overlapping AM stations. These 3 AM stations are used in the network because one of these AM signals alone cannot serve the entire market due to the large geographic area of the Wilkes-Barre Scranton market. Under current ownership regulations, if Entercom did not own any FM stations in the market, Entercom would still be prohibited from utilizing another 3 station AM network to serve the entire market with different programming because another 3 station AM network would cause Entercom to exceed the 5 AM station subcap limitation. In such a situation, the subcap would serve to restrict use of the AM band to fully serve the largest number of people in the market with a diversity of programming.[3] Being able to do so would allow broadcasters that cannot afford more expensive full market signals to put together multiple networks that serve targeted audiences (e.g. religion, ethnic, etc.) with full market coverage. This ability to aggregate stations in the same service (either AM or FM) will increase efficiency and improve service to the public throughout the market with a greater diversity of programming. In the process, it will strengthen the use of the AM band, help preserve its economic viability and improve the ability of radio broadcasters to serve more diverse elements in the markets that the stations serve.

Entercom submits that the Commission should also remove the restriction on the transfer of a cluster of grandfathered stations. Grandfathered clusters of stations generally come about in one of three ways. Many were created at the time the Commission changed the definition of a market for multiple ownership purposes from a contour overlap methodology to one that utilizes

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[2] *See* comments of Clear Channel, at 39.

[3] This issue is not unique to the AM band. It also applies to the ability to aggregate less than full market FM signals in a market to form a network that fully covers the market.

the definition of a market determined by Arbitron Ratings Company ("Arbitron"). Another way that grandfathered clusters are created is through changes in the number of stations in a market, usually either by a station going dark or being moved into an adjacent market. Finally, grandfathered clusters can be created by changes by Arbitron in the area that constitutes a market, such as moving a county out of one market and into an adjacent market. A licensee has no control over any of the events that can cause the market ownership limits to change resulting in the licensee's cluster becoming grandfathered. Two of Entercom's three grandfathered clusters were at one point fully compliant but because of stations going dark in the market are now grandfathered.[4]

When such a change occurs, the licensee is then prohibited from transferring a cluster intact and must break it up. This reduces the value and impairs the investment that was made. This ultimately weakens the radio industry and thus its ability to serve the communities that they are licensed to serve. On the other hand, the Commission has acknowledged that transferring such a grandfathered cluster is not inherently bad as the rules do allow a transfer to a very limited class of "eligible entities." While this buyer pool is so limited that it is not a real option for most owners of grandfathered clusters, the fact that the Commission allows grandfathered clusters to be transferred under certain circumstances indicates that the Commission believes that allowing the transfer of such clusters is not inherently bad policy.

In each of the situations that create grandfathered clusters, the licensee will have invested significant sums to acquire and develop the stations that it owns. The licensee will have bought the station licenses and equipment, hired personnel and built studios based on the number of stations. The licensee's business plan and programming choices are usually based on the number of stations in the cluster. A cluster of stations is usually more valuable than the sum of its parts because these stations work together as a cohesive unit enabling the stations to pool resources to create better programming and services for listeners. Impairing that value and investment through no fault of the licensee is not equitable.

In addition, lack of transferability can have an adverse impact on the strength of the radio industry. The potential lack of transferability can inhibit the acquisition by broadcasters of larger clusters that could later be rendered non-transferable due to a change in the market over which

[4] The two clusters that are now grandfathered are Kansas City and Greenville, SC.

the licensee has no control. Thus, depriving the public the benefits of the efficiencies, greater resources and diversity of programming that larger clusters can bring to a market. Accordingly, Entercom urges the Commission to remove the prohibition on free transferability of grandfathered clusters.

With increasing media fragmentation and competition to radio from an increasing number of audio sources, the Commission should be looking for ways to improve the economic health of the radio industry. The removal of the subcaps and allowing free transferability of grandfathered clusters are small steps that the Commission could take that would help improve the economic viability of the radio industry and enhance its ability to serve the communities that they are licensed to serve.

Respectfully submitted,

Entercom Communications Corp.
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By: ____________________

John C. Donlevie
Executive Vice President & Secretary

Dated: July 26, 2010

MEDIA VENTURE PARTNERS

September 9, 2010

FILED ELECTRONICALLY VIA ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: MB Docket No. 09-182

Dear Ms. Dortch:

As the co-founder of Media Venture Partners, LLC ("MVP"), a nationally recognized investment banking and media brokerage firm specializing in, among other things, raising of capital and the selling of broadcast assets, I write to urge the Federal Communications Commission ("FCC" or "Commission") to repeal the AM/FM subcaps in the course of its 2010 Quadrennial Review proceeding.

The Commission is well aware of the precipitous financial decline of the radio industry in the last several years. Nationwide, radio revenues have declined over 30% since 2006, from $20 billion to $14 billion in 2009. In 2010 revenues have improved slightly, but life in smaller markets is still a struggle: MVP has analyzed BIA data for 141 markets with revenue between $5 million and $15 million. We found a total of 2,534 commercial stations, of which BIA considers 1,224 to be "viable," as it defines that term, i.e. garnering a significant revenue share. In 2009, these 1,224 stations generated a total of approximately $1.2 billion in revenue, or $1 million per station. This was down from an average of about $1.275 million per station in 2007. In markets this size, that $275,000-a-year decline can often make the difference between a fully-staffed cluster, providing news, public affairs and community outreach, and a cluster that is laying off staff and cutting back services to the local community.

The subcaps currently prevent transactions from occurring in at least 150 markets in the country. Lifting the subcaps would create countless opportunities for deals, allowing some owners to shift their portfolios more towards AM or FM properties in order to better serve the needs and interests of their target audiences and thereby improve their financial condition, allowing others

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that for one reason or another wish to exit the radio marketplace to do so, and freeing up some stations for purchase by new entrants who wish to provide unique programming and/or serve niche audiences.

With the freedom to own the mix of AM and FM stations best suited to their listeners, radio broadcasters would earn increased revenues, hopefully setting the stage for a return to the level of revenue the industry enjoyed in 2007 and prior years. What may appear to be a very modest improvement in financial performance stands to create substantial public interest benefits—the swing from an average per-station revenue of $ 1 million to the $1.275 million figure cited above is, in our opinion, the difference between a healthy cluster doing a good job of serving its community and a cluster struggling to survive. Stations cutting payroll are not stations thinking about covering local news and originating public affairs programming—it takes talented professionals to do this kind of work.

A healthier industry would set the stage for existing troubled debt to be retired, freeing up capital for new lending. Today, it is virtually impossible to find a lender willing to make loans on smaller-market radio stations without significant credit support or additional collateral. The pace of radio station transactions is a small fraction of that seen in prior years, and new entrants to the industry, including minorities and women, are being shut out due to their inability to find capital with which to acquire stations.

None of this is likely to improve until the lenders to the industry are able to repair their balance sheets and start lending again. This will only occur once borrowers are able to improve their financial performance, and elimination of the AM/FM subcaps is a critically important first step towards achieving that goal.

Because the positive impact of subcap elimination would be widely dispersed across many markets and many businesses, this change would do much to instill greater confidence in the radio industry as a whole on the part of lenders. Over time, a healthier industry would, once again, attract new capital, and there would be capital available for new entrants, including entrants that today have no chance of finding debt or equity capital.

In short, a decision by the FCC to eliminate the AM/FM subcaps would provide a catalyst for movement in radio station sales and bring much-needed help to an industry that is in distress and very overleveraged, thereby improving the important service that radio broadcasters offer to their local audiences. I therefore urge the Commission to repeal the subcaps in this proceeding.

Respectfully submitted,

/s/ Elliot B. Evers

Elliot B. Evers
Managing Director
Media Venture Partners, LLC

Your submission has been accepted

ECFS Filing Receipt - Confirmation number: 201099238829

Proceeding

Name	Subject
09-182	Media Bureau annnnounces workshop details and seeks comment in ITS 2010 Media Ownership review proseeding.

Contact Info

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of	)	
	)	
2010 Quadrennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996	)))))	MB Docket No. 09-182

To: The Commission, Office of the Secretary

COMMENTS OF MONTEREY LICENSES, LLC

Monterey Licenses, LLC ("Monterey") hereby submits comments in response to the Notice of Inquiry released in the above-referenced proceeding (the "NOI").[1] By these comments, Monterey raises issues for the Commission's consideration as it undertakes its quadrennial review and revision of the broadcast multiple ownership and cross-ownership rules. Specifically, in reviewing its local radio ownership rules, the Commission should take into account today's realities of the market for audio entertainment in which companies such as Monterey must compete. In a world where there are audio competitors available in the home or the car where a single company can put hundreds, or even thousands of channels into any radio market, the rules governing the number of stations owned in a market by a company simply no longer make sense.

In particular, rules prohibiting the sale as a single unit to any third-party buyer of grandfathered radio station clusters, which were compliant with the local ownership rules when created but which became noncompliant when the rules were changed in 2003, no longer make

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[1] *2010 Quadrennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, Notice of Inquiry, MB Docket 09-182, FCC 10-92 (May 25, 2010) ("NOI").

sense. In addition, the rules limiting the "subcaps" within the ownership rules, which limit an owner to a particular number of AM or FM stations in a market, do not comport with today's marketplace realities where audio service is simply audio service. Even within the broadcast services themselves, the distinctions are not clear. AM stations can be rebroadcast on FM translators, carried on the Internet, broadcast digitally, and even carried on FM HD-2 channels. Channel 6 LPTV stations can stream audio that is received as an FM signal. And, through the use of an FM converter, all sorts of digital signals can be received on any radio. In this world, the subcaps are no longer relevant. Especially given today's audio marketplace, even if an owner acquired the maximum number of stations allowed in any market, and even if they were all high-powered FM stations, that owner's potential audience reach, and the diversity of programming that it could offer, would still be dwarfed by the choices available through other services such as Sirius XM or Internet radio. Thus, in assessing the matters to be considered going forward in this proceeding, the Commission must reexamine the current application of the radio ownership rules.

Monterey is the license-holding subsidiary of Triad Broadcasting LLC. It holds the licenses to 32 radio stations in radio markets including Fargo, ND-Morehead, MN; Bluefield, VA and WV; Peoria, IL; Hilton Head, SC; Biloxi, MS; and Savannah, GA. The company is headed by an individual with over three decades of radio ownership experience. From that experience, it is clear that the radio marketplace is vastly different today than it was even in 1996, when the local radio ownership caps in place today were adopted. The vast changes in competition in the radio marketplace – in particular the loss of the dominance that radio once had over audio listening in the car and the office – makes for a marketplace where the rules on local concentration simply are not as relevant as they were when they were adopted. And this change is not slowing – if anything the increase in new sources of competition is growing.[2]

Given this background, the rules adopted in 1996, as modified by the Commission's 2003 Report and Order,[3] set ownership limits that are unnecessary and irrelevant. And many of the particular aspects of those rules as in force today are particularly without justification. In 2003, the Commission announced a change in the methodology of computing how many stations are in a radio market, switching from the methodology of defining radio markets by the contour overlap method to counting stations in Arbitron-rated markets, as interpreted by a private company, BIA.[4] In that transition, the number of stations in some markets changed, causing some then-compliant combinations to be in violation of the new rules. To avoid penalizing owners that had acquired stations under the preexisting local ownership rules, the Commission grandfathered existing station combinations that complied with the applicable ownership caps under the earlier contour overlap method, but which exceeded the limits under the new Arbitron method.[5] Fundamental to this decision was the Commission's understanding that forced divestiture would result in adverse public interest consequences. Under the Commission's rules, however, should a licensee seek to sell a grandfathered radio cluster, the proposed buyer must

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2 See, e.g., the announcement of a new audio service that will offer 50 channels of audio service through a technology using the available digital bits made possible by the recent digital television transition. http://ludwigent.com/. This service will be advertising supported and, as it is broadcast through local television stations, it will be localizable – a direct competitor to radio.

3 *In the Matter of 2002 Biennial Regulatory Review - Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, Report and Order, 18 FCC Rcd 13620 (Aug. 5, 2003) ("*2003 R & O*").

4 *2003 R & O* at 13724-13728.

5 *2003 R & O* at 13807-13809.

comply with the applicable ownership cap based on the now-operative Arbitron radio market definition, meaning that some stations must be divested.

Presently, the assignment of a grandfathered (and thus non-compliant) cluster of radio stations is permitted to an eligible entity or if the applicant certifies that it will come in compliance by divesting the necessary station or stations within 12 months of the consummation of the transaction by transferring the extraneous station or stations to an eligible entity or to an irrevocable trust that in turn will assign the station or stations to an eligible entity.[6] Thus, while the Commission's Rules ostensibly provide for the sale of a grandfathered cluster, in most cases the transfer of the grandfathered cluster is short lived, existing only so long as held by an eligible entity, which cannot then itself freely sell the cluster. The current allowance for the sale of grandfathered stations to eligible entities is little more than a procedural mechanism to gain time to spin off the offending stations. If there is no qualified entity that is likely to emerge, or if the buyer fears that none will materialize in the year provided by the rules, then the "extra" station must be sold prior to the closing of the sale of the other stations in the cluster.

Practically speaking, this often results in the weakest and least desirable station or stations in the group -- those with the smallest coverage or located the furthest from the population center of the market -- being orphaned in the sale of a grandfathered cluster. Perversely, rather than creating opportunities, the Commission's current rules place these orphaned stations in the unenviable position of having to survive on their own for the first time without the benefit, support and efficiencies gained from a cluster of stations. Accordingly, such

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6 *2003 R & O* at 13810-13811; *Promoting Diversification of Ownership in the Broadcasting Services*, Report and Order and Third Further Notice of Proposed Rulemaking, MB Docket No. 07-294, et al., 23 FCC Rcd 5944-45 (2008).

divestitures from a grandfathered cluster are doomed to fail, or to exist in a marginal way. Rarely, if ever, do they become a true local voice in a community.

Moreover, this rule prevents a potential buyer from acquiring and maintaining a successful, competitive grandfathered cluster. Instead a potential buyer can obtain only a portion of the stations that form the successful cluster, thereby lowering the overall value of the cluster, as well as hampering any new market entrant faced with the possibility of competing with other incumbent station owners who themselves own grandfathered clusters with more stations than any new entrant is now permitted to own. This rewards incumbent grandfathered licensees and discourages the transfer of station groups, as well as putting potential new entrants at a competitive disadvantage. In today's competitive media marketplace, there simply is no need to maintain the obligation for stations in a grandfathered cluster to be spun off upon sale of the cluster.

Similarly, the FCC's current rules not only place a numerical limit on the total number of stations that a single owner can hold in a particular market, but they also establish "subcaps", setting a lower maximum number of AM and FM stations that can be owned in a market.[7] Those subcaps no longer make any sense, if they ever did. The subcaps seem to assume that somehow AM and FM stations are different, and that this further limitation is somehow necessary to protect the public from too much competition. Some may argue that the subcap preserves AM ownership by forcing larger owners to keep some AM stations, as in most markets, AM stations are by and large assumed to generally have a lower audience. But if that was the purpose of these subcaps, why is there any limit on the number of AM stations that a party can own? If the rules are meant to encourage AM ownership, why not allow the ownership of seven AM stations

7 47 C.F.R. § 73.3555(a) (2009).

in a market with 35 stations, rather than limiting an owner to four stations in that service as mandated by the current subcap?[8] In some ways, allowing one party to own seven AMs in a market might make for stronger AM stations, as these stations could share staffs and, in some cases, programming.

Moreover, these arbitrary distinctions ignore the marketplace realities. While, these days, the FM band generally receives more listening than the AM band, in particular cases, there are very strong AM stations that reach a larger audience than many FM stations in a market. In a hypothetical market of 25 stations, one licensee could own four large FM stations, and two 50 kW AM stations that blanket the market and many adjacent markets, while another licensee would not be able to buy a Class A FM station with limited coverage of the market if it already owned four FMs in that market. Why should one party be able to own two high-powered AM stations, while another would be prohibited from holding fewer stations reaching fewer people, just because they are all on the FM band? How is this justified?

Particularly in today's competitive audio marketplace, localism will be important to all radio operators in order to assure survival against the digital media competition available in every marketplace. Station groups will have to provide local programming, serving local audiences. They cannot simply serve up more music, as there will be hundreds of other sources where that music can be obtained, often with music-choice personalization that the broadcaster cannot offer. Stations that are parts of clusters in markets will best be able to provide local content through increased news gathering and the greater resources needed to compete on the multiple platforms necessary in this new audio marketplace. It is nice to imagine and

[8] 47 C.F.R. § 73.3555(a)(1)(ii)(2009).

hypothesize that a stand-alone, divested station will become a market leader for solving marketplace issues, but in reality, it rarely, if ever, happens.

Today's marketplace is not that of 1996 or even that of 2003. Times and competition have changed dramatically. Requiring divestiture of grandfathered stations in existing clusters no longer makes sense. Nor do rules that distinguish between AM and FM stations. In today's world, it is all audio entertainment, and broadcast stations are competing against competitors with hundreds of channels in every market. Accordingly, in this proceeding, Monterey urges the Commission to eliminate these outmoded rules.

Respectfully submitted,

MONTEREY LICENSES, LLC

By: *__/s/ David D. Oxenford__*
David D. Oxenford
Brendan Holland

Its Attorneys

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Dated: July 12, 2010